

## **Battle Creek Zoning Board of Appeals**

### **Staff Report**

Meeting: December 10, 2013  
Appeal #Z-06-13

**To:** Zoning Board of Appeals  
**From:** Glenn Perian, Senior Planner  
**Date:** November 26, 2013  
**Subject:** A petition for a use variance (Z-06-13) to permit two residential apartments/dwelling units in a C-3 "Intensive Business District" on property located at 439 W. Columbia Avenue and identified by property ID# 6460-11-468-0. This same appeal was before you at the May 14, 2013 meeting.

#### **Summary**

This report addresses a petition from R.B. Christian & Sons Inc. seeking approval of a Use Variance (Z-06-13) to allow for two residential apartments in a C-3 "Intensive Business District" on property located at 439 W Columbia Avenue (Property ID# 6460-11-468-0) where residential uses are not permitted by zoning. This same appeal came before the Zoning Board of Appeals under appeal # Z-03-13 on May 14, 2013 and was denied. The By-Laws of the City of Battle Creek Zoning Board of Appeals in Article VIII, Section 7 states:

*"No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."*

Since "newly discovered evidence" and "changed conditions" are not defined in the Zoning Board of Appeals by-laws or the Planning and Zoning Code of Ordinances, we have accepted the application for the use variance for your consideration. Staff believes the facts remain the same; the Appellant has not submitted any newly discovered relevant evidence required to grant a use variance based on the zoning ordinance standards that conditions have changed in this case as it relates to the use variance that was denied in May of this year by the Zoning Board.

#### **Background/Project Information**

The subject site is located at 439 W. Columbia Avenue in a C-3 "Intensive Business District". Some of you may recall that on November 13, 2012 a request was brought before the Zoning Board of Appeals related to this property to determine if the decision of the Zoning Administrator was proper in determining that the property at 439 W. Columbia Avenue had lost any residential non-conforming status it may have had, and could now only be used in conformance with uses permitted in the C-3 zoning district. The appeal was postponed to the December 11, 2012, meeting date due to only four zoning board members being present. The request was heard at the December 11, 2012, zoning board meeting with a full Board

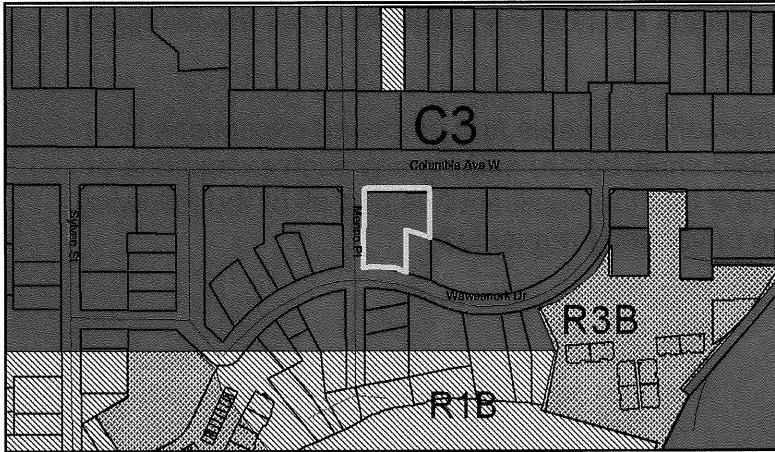
present. During the December hearing it was discussed that there were no records in the form of building permits, rental permits, or zoning variances that would indicate the current apartment units were established legally, which is required before a structure or use may be considered legally nonconforming. The Zoning Board made the determination to uphold and support the decision of the Zoning Administrator that the property could only be used in compliance with the C-3 zoning district. The Board further determined that the Zoning Administrator acted properly in denying a two-unit residential use at property located at 439 W. Columbia Avenue as a legal non-conforming use.

Based on the December 11, 2012 ZBA determination, the Appellant then requested a use variance to allow two residential units on the property located at 439 W. Columbia Avenue in the C-3 district, contrary to those uses permitted in Chapter 1264 of the Planning and Zoning Code. The request for a use variance was heard at the May 14, 2013, Zoning Board of Appeals meeting and the request was denied, with the ZBA board finding that the property could reasonably be used in conformance with the permitted uses in this zoning district. Since the Zoning Board determined that the apartments were not allowed legally at 439 W. Columbia Avenue, the residential uses should have been discontinued. Chapter 1288.05 states:

*VIOLETIONS; REMOVAL OR CORRECTION. A nonconforming structure that was erected, converted or structurally altered in violation of any previous Zoning Code adopted by the City of Battle Creek or the Township of Battle Creek shall not be validated by the adoption of this Zoning Code, and such violation or any violation of this Zoning Code may be ordered to be removed or corrected by the proper official at any time. (Ord. 36-84. Passed 12-18-84.)*

The property was not brought into compliance, so a ticket was issued on June 21, 2013 for maintaining the residential uses in a C-3 district in violation of the zoning code. The August 8, 2013 pretrial conference was rescheduled for September 12, 2013 and again to November 7, 2013 to give Mr. Christian time to consult with a new attorney. Mr. Karre now represents Mr. Christian and the case has been adjourned 120 days due to this new use variance application. Mr. Christian has applied again to the Zoning Board of Appeals for a use variance to allow residential uses at the property.

For this request it is the Zoning Board's responsibility to determine if the additional information supplied by the Appellant meets the Use Variance Standards for an unnecessary hardship as outlined in the Ordinance under Section 1234.04(b)(2) to allow residential uses in the C-3 district at property located at 439 W. Columbia Avenue.



Zoning of Subject and Surrounding Properties

### **Legal Description for 6460-11-468-0**

PARK BEIDLER LOTS 58, 59 & 68 ALSO VAC E 30 FT OF MENNO PL RNG BEG COLUMBIA AVE & WAWEEENORK DR ALSO ALL VAC ALLEY BET LOTS 59 & 68 ALSO N 1/2 OF VAC ALLEY LYING S OF LOT 58, EXC N 8 FT OF SD PARCEL, ALSO EXC BEG AT PT ON W LI OF SD E 30 FT OF MENNO PLAT DIST 8 FT SLY OF S LI OF COLUMBIA AVE - S 88 DEG 58 MIN E PAR WITH S LI OF COLUMBIA AVE DIST OF 8 FT - SWLY TO PT ON SD W LI OF E 30 FT OF MENNO PL DIST 2 FT FROM POB - N 00 DEG 42 MIN E 2 FT TO POB

### **Public Hearing and Notice Requirements**

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, November 21, 2013, not less than the 15 days before the hearing as required by State Law and ordinance.

Sixty-seven (67) notices of the public hearing were also sent by regular mail on November 18, 2013, to property owners and occupants located within 300 feet of the subject parcel. We have not received any correspondence in response to the notification of this hearing.



Aerial Photograph of the Subject Site

### **Applicable Zoning Ordinance Provisions**

Chapter 1234.04 authorizes the Zoning Board of Appeals the following:

\*\*\*

(b) The Board shall have the authority to grant the following variations:

\*\*\*

(2) Use. If there is an unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a use variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial

justice done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

\*\*\*

(2) Use Variances:

A. The building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which the property is located.

B. The condition or situation of the specific piece of property or the intended use of the property is unique to that property and not commonly present in the general vicinity or zoning district. Unique conditions or situations may include exceptional narrowness, shallowness, or shape of the property that existed when the applicable zoning ordinance provision took effect: exceptional topographic conditions or other extraordinary situation on the land, building, or structure; or the use or development of the property immediately adjoining the property in question; or any other physical situation on the land, building or structure deemed by the Board to be extraordinary.

C. The proposed use, if granted, will not alter the essential character of the neighborhood or the intent of the master plan.

D. The immediate hardship cited as the cause for the variance was not created by any affirmative action by the applicant.

**Findings and Recommendation**

Staff has reviewed the application and we do not believe that any new relevant evidence specific to the use variance request has been submitted or that any conditions have proven to be changed since the previous request was heard by the Zoning Board on May 14, 2013 and that there is no unnecessary hardship present to grant the requested variance since the property can reasonably be used as allowed in this zoning district. However, since “newly discovered evidence” and “proof of changed condition” are not defined we have accepted the application. Along with the application the Appellant has submitted a letter from Nelson Karre (Vandervoort, Christ, & Fisher, PC), a sketch, a document titled “Richard Christian Statement”, land contract and deed information, numerous pages copied from the Polk Directory, statements from two individuals saying they lived at the property, excerpts from the 1947 Battle Creek Township zoning ordinance, and copies of numerous voter registration records. All of the submitted information is attached with this report and was considered by staff before making a recommendation to the Zoning Board.

There are numerous statements in the submitted application and documentation that the property has been a residential use for a number of years and the property should be allowed

to continue as a legal-nonconforming residential use. This issue was considered by this Board in December 2012 when Mr. Christian appealed the decision of the Zoning Administrator and the Zoning Board determined that the property was not legal or legal-nonconforming for residential uses; the Zoning Administrator's decision was upheld. The request before the Zoning Board in this application is for a use variance, not an appeal of the Zoning Administrator's decision, and the standards outlined in Section 1234.04 (b)(2) should be applied when rendering a decision on this Appeal.

The Board shall have the authority to grant use variances if there is an unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance. The Board may grant a use variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done so long as the standards set out in the ordinance have been met, most importantly with a determination that the property cannot reasonably be used in accordance with the permitted uses in this zoning district. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125.3101 et seq. In consideration of all appeals and proposed exceptions to or variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested, in this case a use variance.

Planning staff has reviewed all the information submitted by the Appellant and does not believe that each condition in Chapter 1234.04(c)(2) (A through D) of the Planning and Zoning Code has been met for the Zoning Board to approve the use variance requested. We have provided a rationale for each condition outlined in Chapter 1234.04 for use variances and the Planning staff recommends that the Zoning Board of Appeals deny the use variance (Z-06-13) based on the findings contained in this report.

A. Staff believes the building, structure or land *can* reasonably be used in a manner consistent with the uses allowed in the C-3 zoning district in which the property at 439 W. Columbia is located. Staff sees no reason why the building could not be used for any, if not all, uses permitted under Chapter 1264.03 of the Planning and Zoning Code after applying for appropriate permits for renovations or construction. The property meets the minimum lot area and width requirements for the C-3 zoning district and a portion of the building is currently being used for a use permitted in the C-3 zone. On December 11, 2012, the Board examined City Assessing records from 1984-1993 for 439 W. Columbia Avenue and determined that the building was used for an office use, thus demonstrating that the building can and, in fact, has been used as an office consistent with the permitted uses in the C-3 zoning district.

The Board determined at the December 11, 2012 meeting that the Zoning Administrator acted properly in denying the two-unit residential use at property located at 439 W. Columbia Avenue and the residential use was not a legal non-conforming use. Most of the information the Appellant has submitted attempts to establish that the property was used and could be used for residential purposes. This argument is not relevant for the standards outlined in the ordinance authorizing the Board to grant a use variance and the time period to appeal the December 11, 2012 Zoning Board decision has lapsed. The claimed "newly discovered evidence" offered by the applicant regarding alleged past residential use of the property does

not negate the fact that the property could be used legally for any use permitted in the C-3, C-2, C-1, or O-1 zoning districts, which is the required standard in the ordinance to consider. Furthermore, for the Appellant to continue to argue that the property has been used for residential purposes for decades is irrelevant to this request and should not be considered in determining if this use variance request should be granted. If the Appellant were to apply to the City to use the property for any number of commercial uses allowed in the C-3 district, the requests would be approved, demonstrating that the property *can* legally be used for any number of permitted uses in this district.

Staff believes that because the property can be reasonably used for one of the uses allowed in the C-3 (or C-2, C-1, O-1) zoning district, thus there is no unnecessary hardship and the variance should be denied.

B. Staff has not found anything unique about the property to satisfy this standard nor did the Applicant provide anything in the application packet to show unique conditions associated to the property. The condition or situation of the specific piece of property or the intended use of the property is *not* unique to that property and is commonly present in the general vicinity or zoning district. There are no unique conditions or situations envisioned by the standards such as exceptional narrowness, shallowness, or shape of the property that existed when the applicable zoning ordinance provision took effect: exceptional topographic conditions or other extraordinary situations on the land do not exist. Furthermore, the Zoning Board determined at the December 11, 2012 meeting that the building had been altered without the proper permits and the residential apartments were not considered a legal non-conforming use of the building or property. Staff sees no reason why the property could not be used in conformance with the Planning and Zoning Code for uses permitted in the C-3 district, and in fact, a portion of the building currently is being used for a permitted use in the C-3 district.

Staff believes that for the reasons stated above this standard has not been met and the variance should be denied.

C. Staff finds the proposed residential use, if granted, in fact would alter the essential character of the neighborhood or the intent of the Zoning Ordinance by allowing mixed commercial and residential uses in the C-3 zone which is not permitted by the Planning and Zoning Code.

Staff believes that for the reason stated above this standard has not been met and the variance should be denied.

D. The immediate hardship cited as the cause for the variance requested may not have been created by any affirmative action exclusively by this applicant, however, it was previously determined by the Board that the property had not been legally converted to its current residential uses. Additionally, this Applicant continued to make improvements to the building without obtaining the proper permits and rented units without registering the units with the City. Staff sees no reason why the property could not be used or restored to a condition suitable for a use permitted in the C-3 zoning district.

### **Attachments**

The following information is attached and made part of this Staff Report.

1. Use variance standards decision tree outlined by the City Attorney's Office-Revised February 2013
2. Pages from the 1995 & 1998 Polk City Directory stating that information may not be complete or accurate
3. ZBA Petition Form (Petition #Z-06-13)
4. A letter dated November 4, 2013 from Nelson Karre (Vandervoort, Christ, & Fisher)
5. Sketch of property
6. "Richard Christian Statement"
7. Land contract and deed information
8. Numerous pages copied from the Polk Directory
9. Statements from tenants of the property
10. Excerpts from the 1947 Battle Creek Township zoning ordinance
11. Numerous voters registration record copies

# VANDERVOORT, CHRIST & FISHER, P.C.

LAWYERS

CHRIS T. CHRIST  
JAMES A. FISHER  
NELSON KARRE  
ROBERT J. SHARKEY  
JAMES E. REED★  
DAVID P. LUCAS  
MARTHA J. WIDDOWS-WITHAM

OF COUNSEL:  
ROBERT D. MCFEE

⊙ ALSO ADMITTED IN IN  
★ ALSO ADMITTED IN WA

**BATTLE CREEK OFFICE:**  
THE BATTLE CREEK TOWER, SUITE 450  
70 WEST MICHIGAN AVENUE  
BATTLE CREEK, MICHIGAN 49017

**COLDWATER OFFICE:**  
COLDWATER EXECUTIVE SUITES, SUITE 2B  
28 WEST CHICAGO STREET  
COLDWATER, MICHIGAN 49036-1678

**BATTLE CREEK OFFICE:**  
**VOICE:** (269) 965-7000  
**FAX:** (269) 965-0646

**COLDWATER OFFICE:**  
**VOICE:** (517) 278-0500  
**FAX:** (517) 278-0501

MILLARD VANDERVOORT (1906-1981)

November 4, 2013

**WRITER'S TELEPHONE EXTENSION: 323**  
**REPLY TO BATTLE CREEK OFFICE**  
**Email: [nkarre@vcflaw.com](mailto:nkarre@vcflaw.com)**

Christine Hilton  
Zoning Supervisor  
City Hall  
Battle Creek, MI 49017

Re: RB Christian; 439 West Columbia; Variance Application

Christine:

I've enclosed with this letter the application of RB Christian & Son, Inc. for a use variance, plus this Firm's check for \$200 as the filing fee. The application includes a site plan plus attachments to the application form.

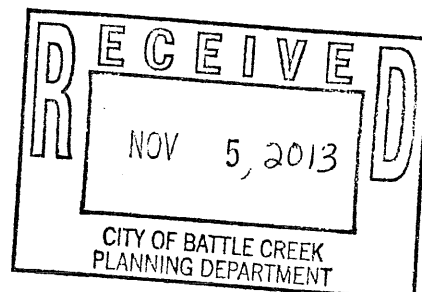
I assume this could be set for the December 2013 ZBA meeting.

I know you will advise if you have questions or suggestions.

Vandervoort, Christ & Fisher, P.C.

Nelson Karre

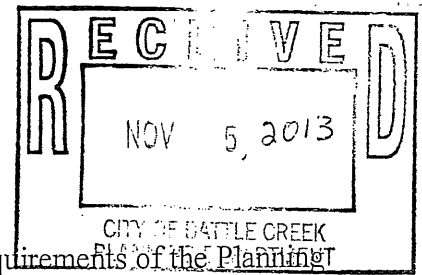
nk/  
c Rick Christian  
enc





**APPLICATION FOR A VARIANCE**  
**ZONING BOARD OF APPEALS**

*City of Battle Creek Michigan*



An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: RB Christian & Sons, Inc.

Address: 439 W. Columbia Phone: 269-963-2222

Name of Owner (if different from Appellant): \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**TO THE ZONING BOARD OF APPEALS:** Request is hereby made for permission to:  
(Choose One)      **Extend**      **Erect**      **Waive**      **Use**      **Convert**      **Enclose**

Description: See attached

Contrary to the requirements of Section(s) 1264.03 & 1288 of the Planning and Zoning Code, upon the premises known as 439 & 447 W. Columbia and 7 Menno Place Battle Creek, MI, in accordance with the plans and/or plat record attached.

**The proposed building or use requires Board action in the following area(s):**  
See attached

Property/Tax I.D. # No. 6460 - 11 - 468 - 0

Size of the Lot: Width \_\_\_\_\_ Depth \_\_\_\_\_  
Size of Proposed Building: Width \_\_\_\_\_ Depth \_\_\_\_\_ Height \_\_\_\_\_

**The following reasons are presented in support of this appeal (complete each section):**

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

See attached

(b.) This problem is due to a unique situation not shared in common with nearby property owners because:

See attached

(c.) Granting the variance would not alter the essential character of the area because:

See attached

(d.) The problem is not self-created because:

See attached

(e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

See attached

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. **In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.**

Richard Christian President  
(Print Appellant Name) R D Christian & Son, Inc

Richard Christian President  
(Signature of Appellant)

439 W. Columbia Av  
(Address of Appellant)

***If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.***

The following reasons are presented in support of this appeal (complete each section):

(a.) This property cannot be used in conformance with the ordinance without the requested variance because:

**The City Zoning Ordinance requires the applicant to demonstrate “the building cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which the property is located.” With that in mind:**

The building at 439 W. Columbia (which also includes the addresses of 447 W. Columbia and 7 Menno Place) has been used as a 2 or 3 unit apartment building since at least the early 1950s. It is not reasonably practical to convert the apartments into uses allowed under the current zoning ordinance. The apartments have been used as apartments continuously since the early 1950s, as set forth in the statement of Richard Christian attached. The use as apartments began when the Battle Creek Township Zoning Ordinance allowed apartments in the zoning district of which the subject building was part, and the subject property should be considered a lawful non-conforming use.

In addition to the attached statement from Mr. Christian, applicant also attaches voter registration records obtained from the City. Those records help demonstrate there were residents in one or more of the apartments before and after the merger of the Township with the City in 1983.

The City Directory pages attached to Mr. Christian’s statement support his description of apartment usage at the building continuously since the early 1950s. Between Mr. Christian’s memory, the City Directories, the statements from two former tenants, and the voting records, there is substantial proof of the history of the apartments. No one in the Planning Department can refute Mr. Christian’s description, other than to perhaps say City Directories are not always reliable. Applicant is not relying solely on the City Directories, as demonstrated above.

(b.) This problem is due to a unique situation not shared in common with nearby property owners because:

**The use of the subject building for apartments developed when the Battle Creek Township Zoning Ordinance allowed apartments, and has continued as a lawful non-conforming use since, and should be considered as such now. To applicant's knowledge there are not similar lawful non-conforming uses in the neighborhood.**

(c.) Granting the variance would not alter the essential character of the area because:

**The subject building has been continuously used as a three apartment building or a one office and two apartment building for over 60 years. There are many residential properties across Menno Place to the West and across WaWeeNork to the South, and there are office/commercial properties to the North and East. Allowing the building to continue as it has been for 60 years maintains that consistent use.**

(d.) The problem is not self-created because:

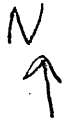
**The subject building was used for apartments since the early 1950s, before the applicant and its owners acquired the property. The apartments were built at a time when the applicable zoning allowed the same. The applicant has only continued it, not created or expanded it.**

(e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

**The City Zoning Ordinance does not require the demonstration set forth above. Regardless:**

**The configuration of the subject building make it impossible to change the use to anything the current zoning would allow. To place the apartments in a condition that would allow a complying use would require gutting and rebuilding them.**

R.D. Christian & Son Inc.  
Varicene Application  
Site Plan



West Columbia Ave

Location of small  
building demolished  
in 1971  
Former 439 W Columbia

Menne Place

447

439  
(formerly  
445)

(Upper Floor)

→  
7 Menne  
Place  
(lower  
floor)

Walwee Park

## RICHARD CHRISTIAN STATEMENT

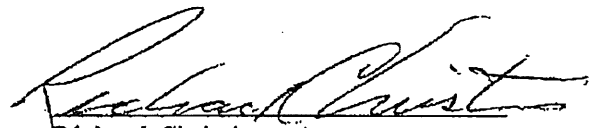
I am Richard Christian, owner of RB Christian & Son, Inc. I offer this statement in support of my contention of a lawful non-conforming use of the apartments associated with the building at 439 West Columbia Ave., Battle Creek, MI.

1. I was born in 1948, and I have lived in Battle Creek since 1952. I recall living with my father and mother in the early 1950's in a house at 6 Menno Place, across the street from 439 West Columbia. I can recall times in the 1955-1957 when Susan Graves, who rented an apartment in the building now known as 439 West Columbia, babysat for me at her apartment while my parents were at work. I can recall seeing occupants of the three apartments in the building now known as 439 West Columbia while we lived at 6 Menno Place.
2. In the 1950's, my father Robert Christian began operating a concrete step manufacturing business in a small building located in front of what is now 439 West Columbia. I began working at that business in 1964. While the business operated from that small building, there were three apartments in what is now 439 West Columbia. As near as I could tell, those apartments appeared to always have been occupied.
3. In 1971, my father and mother purchased the property including the small building and what is now 439 West Columbia on a land contract from Alvah O. Cantine. That small building had a street address of 439 West Columbia, and the building that is now 439 West Columbia had a street address of 445-447 West Columbia and 7 Menno Place. They formed the corporation RB Christian & Son Inc. to operate the business at that address, with the corporation leasing it from them. I was working full time at the business from that period to the present. In approximately 1971 my father arranged to demolish the small building and converted one of the two front apartments in the 439 building into an office for the business, with an address of 439 West Columbia. My parents continued to rent the other two apartments with addresses of 447 West Columbia (upper floor facing Columbia) and 7 Menno Place (lower floor facing Menno Place). In 1984 my father and mother received a deed in fulfillment of the above land contract from Alvah Cantine.
4. In 2000, my father and mother transferred the 439 building to a corporation they had formed, RB Christian & Son., Inc. I acquired the corporation from my father and mother in 2007.

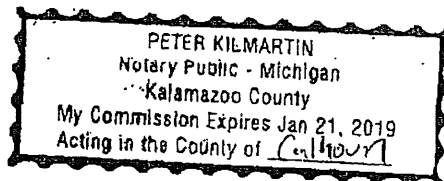
5. I recall that the apartments in what is now the 439 building were always rented, from the 1950's to the present, with no vacancy lasting more than 30 days. Some renters were present for years, including recently Dave Colles (a renter of 7 Menno Place for the last 16 years) and Jack Coleman (a tenant for years who recently moved to Florida). Sue Graves, Marcia Porter, and Marguerite Lake are some of the tenants I recall living in one of the apartments for years at a time.

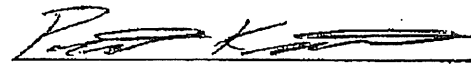
6. I recall former Battle Creek Township Supervisor Rhody Reichert telling my father and me in the 1970's that the apartments were a "grandfathered" or lawful non-conforming use, having been used as apartments at a time when the Township zoning ordinance allowed it.

7. I have attached a copy of the recorded documents concerning the Cantine to Christian land contract in 1971 and the later Cantine to Christian deed in 1984. It appears Mr. Cantine acquired the property before 1950. I've also attached copies of relevant pages from the City Directory for Battle Creek, for years from 1948 to the present, showing different names at different times for 439, 445, and 447 West Columbia and 7 Menno Place, consistent with apartment dwellers being present.

  
Richard Christian

Sworn to before me in Calhoun County MI on September 10, 2013 by Richard Christian.



  
Notary Public, Calhoun County, MI  
Comm exp. Jan 21, 2019

WARRANTY DEED--TO TAKE EFFECT BY THE ENTIRETY OF THE PARTIES  
(2010-STAT)-1002

THE "GOODS" LINE OF LEGAL BLANKS  
THE "GOODS" LINE OF LEGAL BLANKS  
THE "GOODS" LINE OF LEGAL BLANKS

Recorded  
at \_\_\_\_\_ o'clock  
Liber \_\_\_\_\_ of Deeds, Page \_\_\_\_\_  
Dec 19 3 51 PM '84  
Register of Deeds.

This Indenture, made this 26<sup>th</sup> day of June in the year of our Lord one thousand nine hundred and eighty four  
BETWEEN A.O. Cantine, survivor of himself and Mary Cantine, who was his wife, and Margie J. Cantine, 204 Lakeshire Road, Battle Creek, MI 49015 of the first part, and Robert B. Christian and Beverly M. Christian, 154 Edgebrook, Battle Creek, Michigan, 49015 husband and wife, as tenants by the entireties, of the second part,  
WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Twenty Two Thousand Five Hundred and no/100 (\$22,500.00)----- Dollars, to them in hand paid by the said parties of the second part, the receipt whereof is hereby confessed and acknowledged, do by these presents, grant, bargain, sell, remise, release, alien and confirm unto the said parties of the second part, and their assigns, and the survivor of them, his or her heirs or assigns, FOREVER, all those certain places or parcels of land situated and being in the City of Battle Creek, County of Calhoun, and State of Michigan, and described as follows, to-wit:

Lot 58 and the East one-half (E.1/2) of Lot 59 of Park Beidler, according to the recorded Plat thereof; also the West 20 feet of Lot 59 and all of Lot 68, both of Park Beidler, as appears by the recorded plat thereof; also all land between Lot 59 and Lot 68 of said addition, as appears by the recorded plat; also a strip of land 30 feet in width east and west, bounded on the north by the south line of Columbia Avenue, on the east by the west lines of said lots 59 and 68, extended to join, and on the south by Euclid Avenue as appears by the recorded plat, and on the west by Menno Place as the same is now located and as limited by the decree entered on the 13th day of July, 1942, by the Circuit Court for the County of Calhoun, State of Michigan, in chancery, that is recorded in Liber 497 on page 219 in the office of the Register of Deeds for Calhoun County, Michigan.

Together with all and singular the hereditaments and appurtenances thereto belonging or in anywise appertaining: To Have and to Hold the said premises as above described, with the appurtenances, unto the said parties of the second part, and to their assigns, and the survivor of them, his or her heirs or assigns, FOREVER. And the said A.O. Cantine and Margie J. Cantine, husband and wife,

for themselves heirs, executors, and administrators, do covenant, grant, bargain and agree to and with the parties of the second part, their assigns, and the survivor of them, his or her heirs or assigns, that at the time of the executing and delivery of these presents they were well seized of the above granted premises in Fee Simple; that they are free from all incumbrances whatever except easements and restrictions that appear of record and also except liens and defects in title created by any act, neglect or omission since November 1, 1971 by persons other than parties of the first part

and that they will, and their heirs, executors and administrators shall Warrant and Defend the same against all lawful claims whatsoever, except those aforesaid. This conveyance is made and accepted in full satisfaction of the obligations of first parties as vendors in a land contract for sale of this property to parties of the second part dated November 1, 1971. Certificate of the death of Mary Cantine is recorded in the Office of the Register of Deeds of Calhoun County, Michigan, in Liber 1266 on page 841.

In Witness Whereof, The said parties of the first part, have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in Presence of  
Lloyd Humbarger  
Lloyd Humbarger  
Lorraine Pursley  
Lorraine Pursley  
State of Michigan )  
County of Calhoun )  
I hereby certify that there are no tax liens on titles held by the State on the lands described in the within instrument, and that there are no tax liens or titles held by individuals on said lands for the five years preceding the date of this instrument, as appears in my office. This certificate does not apply on taxes, if any, now in process of collection.  
DEC 10 1984  
A. O. Cantine  
Margie J. Cantine  
L. S.  
L. S.

STATE OF MICHIGAN  
COUNTY OF CALHOUN  
before me, a notary public  
Margie J. Cantine, husband and wife,  
to me known to be the same person S described in and who executed the within instrument, who several acknowledged the same to be their free act and deed,  
Prepared by:  
Lloyd Humbarger, Lawyer  
810 Comerica Building  
Battle Creek, MI 49017  
On this 26<sup>th</sup> day of June, A. D. 1984  
In and for said County, personally appeared A.O. Cantine and  
Notary Public, Calhoun County, Michigan.  
My commission expires March 19, 1986  
1325 PAGE 415  
LLOYD HUMBARGER  
Lloyd Humbarger  
Calhoun County, Michigan.  
March 19, 1986



Date

This Contract Made and executed this First day of November 1971 between A. O. CANTINE and MARY CANTINE, husband and wife

Parties

whose address is, 204 Lakeshire Road, Battle Creek, Michigan hereinafter called "vendor", and ROBERT B. CHRISTIAN and BEVERLY M. CHRISTIAN, husband and wife, as tenants by the entireties,

whose address is, 154 Edgebrook, Battle Creek, Michigan hereinafter called "purchaser",

Consideration

WITNESSETH That, in consideration of the promises hereinafter contained, it is agreed:

1. Vendor hereby sells to purchaser the premises situated in the Township of Battle Creek County of Calhoun Michigan described as follows:

Lot 58 and the East one-half (E. 1/2) of Lot 59 of Park Beidler, according to the recorded Plat thereof; also the West 20 feet of Lot 59 and all of Lot 68, both of Park Beidler, as appears by the recorded plat thereof; also all land between Lot 59 and Lot 68 of said addition, as appears by the recorded plat; also a strip of land 30 feet in width east and west, bounded on the north by the south line of Columbia Avenue, on the east by the west lines of said Lots 59 and 68, extended to join, and on the south by Euclid Avenue as appears by the recorded plat, and on the west by Menno Place as the same is now located and as limited by the decree entered on the 13th day of July, 1942, by the Circuit Court for the County of Calhoun, State of Michigan, in chancery, that is recorded in Liber 497 on page 219 in the office of the Register of Deeds for Calhoun County, Michigan.

Description

Nov 5 2 38 PM '71

REGISTER OF DEEDS  
Calhoun County, Mich.

*Robert B. Christian*

STATE OF MICHIGAN  
COUNTY OF CALHOUN

I, the undersigned, are the Tax Assessor of the County of Calhoun, State of Michigan, and I hereby certify that the above described premises are not subject to any tax lien for the year 1971, and that the same are not subject to any tax lien for the year 1972, and that the date of this certificate is the date of the filing of this certificate in the office of the Register of Deeds for Calhoun County, Michigan.

*John A. Christian*  
Treasurer of Calhoun County

2. Purchaser buys said premises, and agrees to pay therefor the sum of Twenty-Two Thousand Five Hundred and no hundredths Dollars, (\$22,500.00).

Price and  
Terms of  
Payment

as follows: Two Thousand Two Hundred Fifty and no hundredth Dollars, (\$2,250.00) upon the execution hereof, the receipt whereof is acknowledged, and the balance, together with interest from November First 1971 on the whole sum from time to time remaining unpaid at the rate of seven (7) per cent per annum, shall be paid as follows: Two Hundred (\$200.00) Dollars ~~shall be~~ paid on the 30th day from and after the date hereof or a like sum, or more, shall be paid on or before the same day of each and every month thereafter continuing

until the whole principal sum and accrued interest shall have been fully paid, or until the balance owing on this contract shall equal the balance owing by vendor on any mortgage upon said premises, which purchaser hereinafter agrees to assume. Assumption of a balance owing on such mortgage shall be considered payment of a like amount on the balance owing on this contract. Payments shall be first applied on accrued interest, and the balance upon principal.

LIBER 977 PAGE 997

Possession

3. Purchaser shall have possession of said premises on the date hereof.

Title of Vendor

4. The ownership of vendor in said premises on this date is by virtue of a deed now held by vendor and the title of vendor is subject to the following incumbrance: None.

Right to Incumber

5. Vendor may renew any present mortgage upon said premises, or replace same with a new mortgage thereon containing similar terms during the effective period of this contract. Said renewal and replacement shall create a lien on said premises prior to the rights of purchaser. Or vendor may place a new mortgage thereon during the effective period of this contract which shall create a lien on said premises prior to the rights of purchaser, provided: (1) Interest rate therein shall not exceed that herein specified. (2) Amounts of installment and final payments on said mortgage shall not exceed respectively the corresponding minimum installment and final payment stipulated by this contract. (3) Due dates of payments on said mortgage shall not require installment payments or final payment in advance of the time provided for said payments in this contract, nor shall said mortgage restrict the time of payments thereon to a date later than is provided for similar payments on this contract. (4) Such mortgage shall not be in an amount in excess of the balance then owing on this contract.

In the event that purchaser reduces the amount owing on this contract to an amount equal to that owing by vendor on any present mortgage on said premises, or on a replacement or new mortgage thereon given in accordance with the terms hereof, then purchaser shall be entitled to, and shall accept, a warranty deed of said premises, subject to said mortgage, which mortgage purchaser shall thereon assume and agree to pay.

Taxes

6. Vendor represents that all taxes and assessments heretofore levied upon said premises have been paid except: The 1971 tax that will be due in December, 1971, and vendor agrees to pay that tax when due.

which purchaser agrees to pay when due all other taxes and assessments of every nature which shall become a lien upon said premises hereafter until said purchase price has been paid in full as herein agreed.

Insurance

7. Purchaser agrees to procure and pay for fire and extended coverage insurance upon all buildings now or hereafter situated on said premises in such company, and in such amount, as vendor shall approve, from the date hereof to the date of delivery to purchaser of the conveyance of vendor's interest in said premises. Said policies of insurance shall correctly state the names of parties in interest to whom loss shall be payable, and shall be delivered upon issuance to vendor. Upon completion of payments on this contract as agreed, vendor agrees to assign vendor's interest in said policies to purchaser, and to deliver said policies and assignments to purchaser.

Right to Add Taxes and Insurance

8. Should purchaser fail to perform his obligations as agreed in paragraph 6 and/or 7 of this contract, vendor may pay such unpaid tax and/or assessment, and/or insurance premium, and the amount thus expended shall forthwith be added to the balance then unpaid on this contract, and shall become due at once, and shall bear interest at the rate applicable to said balance until paid.

Overpayment

9. If purchaser shall pay more than the minimum stipulated installment at any time, such overpayment shall be considered as advance payment on future installments, and, in event that purchaser thereafter fails to make regular payments when due, such prepayment shall be applied to pay installments so unpaid until such prepayment shall be exhausted.

Repair

10. Until complete performance on his part by purchaser, said purchaser shall commit no waste on said premises, and shall keep same in as good condition as they are now in.

Restrictions

11. Valid, presently effective, restrictions now of record, if any, applying to and effecting the use of said premises, are hereby referred to and made a part of this contract, and shall be included in the conveyance to be given purchaser pursuant to this contract.

Time of Essence

12. Time of payment shall be of the very essence of this contract.

Default

13. All buildings and improvements now on said premises, or hereafter placed thereon, shall be a part of the security for the performance of this contract by purchaser, and should default be made by purchaser, said buildings, improvements and all payments theretofore made by purchaser on this contract shall belong to vendor as rental for the use of said premises, and as stipulated damages for failure to perform this contract. Upon such default being made, (1) vendor may consider purchaser as a tenant holding over without permission, and remove purchaser from said premises according to law, or (2) vendor may enforce the payment of the agreed purchase price, or past due installment payments thereof, by proper proceedings at law or in equity.

If any money which purchaser agrees to pay to the vendor by the terms of this contract shall remain due and unpaid for sixty (60) days, vendor may declare the whole balance then owing hereon due and payable forthwith.

Conveyance

14. Whenever purchaser shall have duly made all payments herein provided, and shall have observed and performed the other conditions and agreements herein specified to be observed and performed by purchaser, vendor shall convey the said premises to purchaser by warranty deed, and vendor shall therein agree to warrant and defend the title to said premises against any lien or incumbrances, except such liens and encumbrances, if any, as may have accrued thereon subsequent to the date of this contract by the acts or neglect of purchaser, and also except such liens and incumbrances as purchaser has herein agreed to assume, if any such liens and incumbrances be then in effect.

Abstract of Title

15. Vendor represents and warrants that on the date hereof he has merchantable title to said premises. Vendor agrees to deliver to purchaser with said deed an abstract of title and tax history of said premises, certified to the date of said deed, showing merchantable title on that date in vendor, except as to liens and incumbrances, if any, arising by reason of the acts or neglect of purchaser after the date of this contract, and except as to liens and incumbrances purchaser has herein agreed to assume. Purchaser shall be entitled to borrow the abstract of title to said premises for examination for thirty-day periods while this contract is in effect provided said abstract is then in possession of vendor or can be obtained by him, upon presenting to vendor a written receipt therefor and an agreement to return same within thirty days in the same condition as when received. If a deposit is required to so obtain said abstract from a mortgagee, purchaser shall make such deposit.

Assignment

16. Upon assignment of the interest of any party to this contract, a copy of such assignment shall be forthwith served upon the then owner, or owners, of the other interest, or interests, in said contract, which copy shall contain the mailing address of the assignee. Until said copy is so served an assignee of an interest herein shall acquire no rights under this contract as against parties hereto other than the assignor. Conveyance of said premises by vendor, and assignment of vendor's interest in this contract, shall not constitute a rescission or grounds for a rescission thereof.

Service  
of Notice

17. Service of said copy of an assignment and of any notice necessary to enforce the rights of any party hereto, shall be sufficient (1) if served personally upon the other parties to this contract, or (2) if served by certified U.S. mail addressed to such other parties at their actual address, or at the address given in this contract for them, or if they are assignees, at the address given for them in the copy of assignment served as above, provided:

Novation

18. No assignment of this contract, payment by or acceptance of payments from a person not a party hereto, nor other act of any kind shall operate to release the personal liability of vendor or purchaser under this contract, nor shall such acts constitute a novation and operate to create a personal liability on any assignee of the vendor's or purchaser's interest therein, unless such release and assumption of liability shall be specifically agreed in writing, signed by the party releasing such personal liability and by the party assuming such obligation.

Application



19. The terms of this contract shall apply to, and bind, the heirs, executors, administrators, assigns, successors, survivors, and all other persons claiming any rights in said premise through or under the original parties hereto.

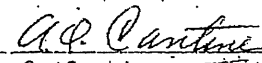
20. Purchaser agrees that, in the event vendor causes to be prepared and served any notices for the purpose of enforcing his rights under this contract in relation to acceleration of the balance owing hereunder, and/or forfeiture of the rights of purchasers hereunder, the actual expenses of the preparation and/or service of said notices, not to exceed Thirty (\$30.00) Dollars for each such notice, shall be added to the principal balance owing hereunder, and shall be immediately due and payable. Purchaser further agrees that the reimbursement of vendor for such expenses shall be made a condition to reinstatement and/or redemption of the rights of purchaser hereunder, and shall be so designated in any notices and/or judgments which may be executed or entered to enforce the rights of vendor hereunder.

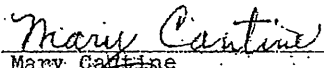
21. Proof of mailing of notices as provided in Paragraph 17 above, with relation to either notices of intent to accelerate and forfeit, or notices of acceleration and forfeiture shall constitute proof of service of such notices as of one day after the date of mailing. If no address has been given to vendor by the then holder of purchaser's interest, said notices shall be mailed to purchaser or his assignee at the mailing address of the premises described in Paragraph 1 above.

In Witness Whereof, the parties hereto have executed this contract in duplicate.

Witnesses As To Vendor:

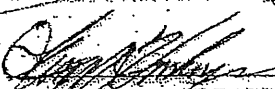
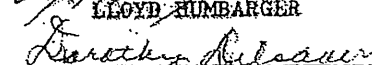
  
LLOYD HUMBARGER  
  
DOROTHY DILSAVER

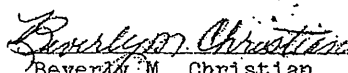
  
A. O. Cantine (L.S.)

  
Mary Cantine (L.S.)

  
Robert B. Christian (L.S.)

Witnesses As To Purchaser:

  
LLOYD HUMBARGER  
  
DOROTHY DILSAVER

  
Beverly M. Christian (L.S.)

\_\_\_\_\_  
(L.S.)

\_\_\_\_\_  
(L.S.)

I lived at 447 W. Columbia, Battle Creek, MI 49015  
from September 2004 until August 2013

Jack Coleman Sept 13-13  
Jack Coleman

JACK STOPPED IN  
when here on business  
IN MICH.

DAVE COLLES STATEMENT

I am Dave Colles. I was a tenant of RB Christian & Son at the apartment at 7 Menno Place, Battle Creek, MI from 1992 to 2013. 7 Menno Place is in the lower level of the building at 439 West Columbia. I recall for the years that lived in that apartment there was a tenant in the apartment above me, at 447 West Columbia Ave., a second apartment in the building at 439 West Columbia.

David Colles  
Dave Colles

Sworn to before me in Calhoun County MI on September 5, 2013 by Dave Colles.

\_\_\_\_\_  
Notary Public, Calhoun County, MI  
Comm exp. \_\_\_\_\_

## Zoning Ordinance of the Township of Battle Creek

Also so much of the Northwest quarter of Section 10 as lies North of Wilbur Avenue.

Also so much of the Northeast quarter of Section 10 as lies North of Richfield Avenue.

Also a parcel bounded by 28th Street; by Richfield Avenue and by the Grand Trunk Railroad spur track through Section 10 into Kellogg Airport.

Also so much of the Northwest quarter of Section 11 as lies North of the Easterly extension of the North line of Betterly Road.

5. The "E" AGRICULTURAL DISTRICT and part of the "B" HEIGHT and AREA DISTRICT are described as follows:

Sections 21, 27, 28, 29, 30, 31, 32, 33 and 34.

Also the West half of Section 22.

Also all of Section 20, except that portion in the Northwest quarter, which is North of US-12.

Also all of Section 19 lying South of US-12.

Also so much of the South half of Section 17 as lies South of Stevens Road and Southeast of US-12.

Also so much of the South half of Section 17 as lies North of Stevens Road and South and Southeasterly of a line parallel with and 250 feet South of the South line of US-12.

Also so much of the South half of Section 16 as lies South of a line parallel and 250 feet South of the South line of US-12.

Also so much of the North half of Section 16 and of the Northeast quarter of Section 17 as lies North of a line parallel with and 314 feet North of the East and West quarter lines of said sections; South of the Territorial Road and Southeasterly of the Northeasterly extension of US-12 through the Northeast quarter of Section 17.

### SECTION XXXIII

Contemporaneously with the adoption of this ordinance an official map is filed with the Township Clerk with the record of the enactment of this ordinance, and entitled:

#### BATTLE CREEK TOWNSHIP ZONING MAP, 1947

and the same is, by reference, incorporated in and made a part hereof. The written text of this ordinance shall nevertheless prevail over said map on any question of construction.

### SECTION XXXIV

This ordinance is adopted under Act 184 of the Public Acts of Michigan for 1943, as amended.

Dated April 29, 1947.

(Note: This ordinance became effective on July 14, 1947 after a special election approving the same. Sections XIV, XX, and XXVI were repealed and amended by Ordinance No. 17 adopted Oct. 20, 1947 which follows.)

Ray E. Meacham,  
Battle Creek Township Clerk.

Zoning Ordinance of the Township of Battle Creek

lot and not involving the conduct of any business, including one private garage, or private stable.

12. Any home occupation which is defined as an occupation carried on for gain in any dwelling, by not to exceed two persons who are residents in said dwelling, and subject to the following conditions: No exterior display of stock or advertising shall be employed; no merchandise shall be sold except merchandise produced in the premises by such residents without the assistance or services of any other persons; the whole occupation, including the production process shall be carried on within the dwelling or accessory buildings; no noisy machinery or process shall be used; no noisome or offensive odors shall be produced.

13. The office of a physician, surgeon, dentist, musician, artist or similar occupation, where building is occupied as his or her private dwelling, provided that no name plate exceeding two (2) square feet in area, containing the name and occupation of the occupant on the premises shall be displayed and where no public display by stock or equipment is made on the premises.

14. A sign not exceeding eight (8) square feet in area, appertaining to the lease, hire or sale of said premises or building thereon.

**SECTION IV — "B" RESIDENCE DISTRICT**

In the "B" Residence District no building or premises shall be used and no building shall be hereafter erected or altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

1. Any use permitted in "A" Residence District.
2. Multiple Dwellings.
3. Boarding Houses.
4. Rooming Houses.
5. Hotels.
6. Hospitals and Clinics.
7. Institutions of an educational, philanthropic or eleemosynary nature.
8. Nurseries, and Greenhouses for propagation, cultivation and growth of plants only.
9. Private Clubs, Fraternities and Lodges, excepting those of the chief activity of which is a service customarily carried on as a business.

10. Private garages complying with the conditions of this paragraph. No garage shall be erected for use or used for more than one (1) car per full rod of lot frontage nor for more than four (4) cars per lot. No garage shall be more than fourteen (14) feet in height. No garage shall be less than eighty (80) feet from the front lot line nor less than three (3) feet from any side or rear lot line nor, if attached to dwelling, shall be less than five (5) feet from side lot line. No garage shall be less than sixteen (16) feet from the dwelling unless attached thereto.

In case of any corner lot contiguous to one or more interior lots fronting on the street which is the side street of the corner lot, in addition to the foregoing requirements no garage shall be set back less than twenty-five (25) feet from the side street line, provided, that if such corner lot have a frontage of less than forty-six (46) feet and depth of less than one hundred (100) feet, the garage must be attached to the dwelling and in such

## Zoning Ordinance of the Township of Battle Creek.

case the setback from the side street may be reduced to twelve (12) feet or the setback of the house from the side street, whichever is less.

11. Accessory buildings for uses customarily incident to any of the above uses specified in this Section, excepting subdivision ten (10) hereof, when located on the same lot, and except as otherwise limited by this ordinance; provided, however, that any such accessory building shall be subject to the same restrictions as to distance from side lot line and rear lot line and as to attaching to dwellings as provided for garages in subdivision ten (10) of this Section.

12. Public Garages, for storage purposes only, and where no repair facilities are maintained, when located from the front lot line not less than twice the distance of the average dwelling on the street within three hundred (300) feet, nor nearer than twenty (20) feet to the nearest main building on either side, unless such building is of similar use to that of the one proposed to be built; and not less than thirty (30) feet from any other street line on which the property faces; PROVIDED, HOWEVER, that such use will not in the opinion of the Township Board unduly injure or be detrimental to such neighborhood or locality, and no permit therefor shall be issued by the Building Inspector until application for such use and plans for any such building shall have been submitted to and approved by the Township Board; PROVIDED FURTHER, that no public garage shall have an entrance or exit for motor vehicles within three hundred (300) feet of an entrance or exit of a public school or private school playground, public library, church, hospital, children's or old people's home, or other similar public or semi-public institution.

13. Uses incident to any of the foregoing uses, when located on the same lot and not involving the conduct of any business, including one private garage or private stable.

14. The office of a physician, surgeon, dentist, musician, artist or similar vocation, where building is occupied as his or her private dwelling, provided that no name plate exceeding two (2) square feet in area, containing the name and occupation of the occupant of the premises, shall be displayed.

15. A sign not exceeding eight (8) feet in area appertaining to the lease, hire or sale of said premises or building thereon.

### SECTION V — "C" COMMERCIAL DISTRICT

In "C" Commercial District, the following uses are permitted:

1. Any use permitted in "B" Residence District.
2. Any trade, commerce, service or professional business not prohibited in this section (but not public garages nor any manufacture, treatment, or processing of any goods, ware or merchandise, except as expressly permitted in this section).

The following uses are prohibited:

1. Blacksmith or Horseshoeing Shop.
2. Coal, Coke or Wood Yard.
3. Contractor's Plant.
4. Cooperage Works.
5. Livery Stable.
6. Lumber Yard.
7. Outdoor Storage Yard.



## Zoning Ordinance of the Township of Battle Creek

Manufacture or processing purely preparatory and incidental to a retail trade or service business conducted in the district by the same proprietor or proprietors, when employing not to exceed ten persons for all of his or their purposes, shall be permitted, provided: That any of the following uses shall be permitted only on condition that a permit therefor shall have been issued by the Building Inspector and approved by the Township Board, and shall otherwise be prohibited:

8. Bakery (employing more than 10 persons).
9. Bottling Works.
10. Dyeing and Cleaning Works (employing more than five persons).
11. Ice Plant or Storage House of more than five tons capacity.
12. Laundry (employing more than five persons).
13. Machine Shop.
14. Milk Distributing Stations.
15. Any kind of manufacture, treatment or processing other than the manufacture, treatment or processing of products clearly incidental to the conduct of a retail business conducted on the premises.
16. Public Garages: Provided that in no case shall a public garage have entrance or exit for motor vehicles within three hundred (300) feet of an entrance or exit of a public or private school, playground, public library, church, hospital, children's or old people's home, or other similar public or semi-public institution.

### SECTION VI — "D" INDUSTRIAL DISTRICT

In "D" Industrial District, buildings and premises may be used for any purpose otherwise lawful, provided that no building shall be erected or altered for use nor shall use of any premises be established in any of the following uses without permit therefor issued by the Building Inspector and approved by the Township Board.

1. Abattoirs.
2. Acetylene Gas Manufacture or Storage.
3. Acid Manufacture.
4. Ammonia, Bleaching Powder or Chlorine Manufacture.
5. Arsenal.
6. Asphalt Manufacture or Refining.
7. Blast Furnace.
8. Boiler Works.
9. Brick, Tile or Terra Cotta Manufacture.
10. Burlap Manufacture.
11. Bag Cleaning.
12. Candle Manufacture.
13. Celluloid Manufacture.
14. Cement, Lime, Gypsum or Plaster of Paris Manufacture.
15. Coke Ovens.
16. Coal Tar Products Manufacture.
17. Crematory.
18. Creosote Treatment or Manufacture.
19. Disinfectants.
20. Distillation of Bones, Coal or Wood.
21. Dyestuff Manufacture.



**RE: Voter registration question**

Nelson Karre to: VLHouser@ci.battle-creek.mi.us

Cc: Nelson Karre

09/12/2013 01:17 PM

Thanks again. Please consider this email a FOIA request for copies of whatever voter registrations records may exist for the period from 1950 to the present concerning registered voters, if any, residing at 445 and 447 West Columbia, and 7 Menno Place, Battle Creek, MI.

Nelson Karre  
Vandervoort, Christ & Fisher, P.C.  
70 W. Michigan Ave., Suite 450  
Battle Creek, MI 49017  
269.965.7000  
269.965.0646 facsimile

---

From: VLHouser@ci.battle-creek.mi.us [mailto:VLHouser@ci.battle-creek.mi.us]

Sent: Thursday, September 12, 2013 1:11 PM

To: Nelson Karre

Subject: RE: Voter registration question

Nelson,

They are public records that would need to be requested through FOIA, of which some information may need to be redacted. Regarding the Qualified Voter File, you must have a sign on provided by the State to obtain the information.

The request can be submitted via email.

Also, I we may not be able to go back 50 years as the records are not kept by address, except in the electronic format, which does not go back 50 years.

Victoria Houser  
City Clerk  
10 N Division Street, Room 111  
Battle Creek, MI 49014  
Phone: 269-966-3348  
Fax: 269-966-3555  
vhouser@battlecreekmi.gov

From: Nelson Karre <NKarre@vcflaw.com>

To: "VLHouser@ci.battle-creek.mi.us" <VLHouser@ci.battle-creek.mi.us>

Cc: Nelson Karre <NKarre@vcflaw.com>

Date: 09/12/2013 12:52 PM

Subject: RE: Voter registration question

9/13/2013

**CHANGE HISTORY FOR**

**ROBERT FLOYD NICHOLS**

**447 COLUMBIA AVE W, BATTLE CREEK MI 49015**

1

Date/Time	Change Description	Changed By
11/22/1999 11:43:21 PM	MADE AN ACTIVE VOTER	DLTOQVF
<hr/>		
Total	1	

9/13/2013

# CHANGE HISTORY FOR

ROBERT FLOYD NICHOLS

447 COLUMBIA AVE W, BATTLE CREEK MI 49015

Description	Date / Time	User Code
STATUS CHANGED TO CANCEL - DECEASED	03/11/2004 3:04:08 PM	SHERRYG @ BATTLE CREEK CITY (05920)
HISTORY STARTED WITH A REG. DATE OF 11/18/1999 FOR ROBERT FLOYD NICHOLS OF 447 COLUMBIA AVE W, BATTLE CREEK MI 49015 (BATTLE CREEK CITY) WITH A STATUS OF ACTIVE	01/12/2003 2:01:01 PM	STATE

Total 2

NICHOLS, ROBERT FLOYD

447 COLUMBIA W AVE  
BATTLE CREEK, MI 49015

Name (Last, First, Middle) 447 COLUMBIA W AVE  
Residence Address BATTLE CREEK, MI 49015  
04002  
Wd/Pct

DL No: N242745255589

Birth Date: 07/27/1929

Reg Date: 11/18/1999

Sex: M

County: CALHOUN

City/Twp: BATTLE CREEK CITY

School: LAKEVIEW SCHOOLS

Mailing Address

00002  
School Pct.

I am a citizen of the United States. I am a resident of the State of Michigan and will be at least a 30 day resident of my city or township by election day. I will be 18 years of age by election day. I authorize cancellation of any previous registration. The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be subject to a fine or imprisonment or both under Federal or State laws.

Village:

X Robert F. Nichols  
Signature of Applicant

11/18/1999 C4 K3222180080  
Date

Telephone:

Transfer to New Address

No.	Street	Date	Wd/Pct.	Former Name
				MAR 11 2004
				DECEASED
				Cancel Date Cause Reinstatement Date

NICHOLS, ROBERT FLOYD

9/13/2013

1

**CHANGE HISTORY FOR**  
**RICHARD BRUCE CHRISTIAN**  
**439 COLUMBIA AVE W, BATTLE CREEK MI 49015**

Date/Time	Change Description	Changed By
10/17/2000 5:50:39 AM	CHANGED ADDRESS FROM 439 COLUMBIA AVE W BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	QVFTODL
Total 1		

9/13/2013

## CHANGE HISTORY FOR

RICHARD BRUCE CHRISTIAN

439 COLUMBIA AVE W, BATTLE CREEK MI 49015

Description	Date / Time	User Code
STATUS CHANGED TO CANCEL - RESIDENCY	02/19/2013 10:11:20 AM	ADMIN @ BATTLE CREEK CITY (05920)
STATUS CHANGED TO CHALLENGED - RESIDENCY	02/08/2013 2:24:07 PM	ADMIN @ BATTLE CREEK CITY (05920)
NAME CHANGED FROM RICHARD B CHRISTIAN TO RICHARD BRUCE CHRISTIAN	10/22/2004 7:36:02 PM	LANSING RENEWAL BY MAIL BRANCH (297)
LONG MOVE(10/20/2004) TO 439 COLUMBIA AVE W, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	10/22/2004 7:36:02 PM	LANSING RENEWAL BY MAIL BRANCH (297)
HISTORY STARTED WITH A REG. DATE OF 10/06/2000 FOR RICHARD B CHRISTIAN OF 60 RYANS RUN, BATTLE CREEK MI 49014 (EMMETT TOWNSHIP) WITH A STATUS OF ACTIVE	01/12/2003 12:25:27 PM	STATE
Total	5	

9/13/2013

# CHANGE HISTORY FOR

1

DUSTIN COLE KING

7 MENNO PL, BATTLE CREEK MI 49015

Description	Date / Time	User Code
REGISTERED(01/11/2011) AS DUSTIN COLE KING AT 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	01/13/2011 2:04:50 PM	CALHOUN COUNTY PLUS BRANCH (216)

Total 1



## CHANGE HISTORY FOR

DAVID MARVIN COLLES

7 MENNO PL, BATTLE CREEK MI 49015

Description	Date / Time	User Code
STATUS CHANGED TO CANCEL - RESIDENCY	09/12/2013 1:06:23 PM	ADMIN @ BATTLE CREEK CITY (05920)
STATUS CHANGED TO CHALLENGED - RESIDENCY	09/12/2013 1:03:11 PM	ADMIN @ BATTLE CREEK CITY (05920)
LONG MOVE(06/05/2012) TO 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	06/07/2012 2:01:20 PM	CALHOUN COUNTY PLUS BRANCH (216)
STATUS CHANGED TO VERIFY - CONFIRM ADDRESS	05/30/2012 1:20:59 PM	DCARNELL @ SPRINGFIELD CITY (75700)
LONG MOVE(12/01/2009) TO 67 AVENUE C, SPRINGFIELD MI 49037 (SPRINGFIELD CITY)	12/03/2009 2:02:25 PM	CALHOUN COUNTY PLUS BRANCH (216)
REGISTERED(08/07/2006) AS DAVID MARVIN COLLES AT 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	08/16/2006 11:22:38 AM	TEMP @ BATTLE CREEK CITY (05920)
Total	6	

COLLES, DAVID MARVIN

7 MENNO PL  
BATTLE CREEK MI 49015

Name (Last, First, Middle)

Residence Address

Wd/Pct 04002

DL No:

Birth Date:

Reg Date: 08/07/2006

Gender: M

County: CALHOUN

City/Twp: BATTLE CREEK CITY

School: LAKEVIEW SCHOOLS

Village:

Mailing Address

School Pct 04002

I am a citizen of the United States. I am a resident of the State of Michigan and will be at least a 30 day resident of my city or township by election day. I will be 18 years of age by election day. I authorize cancellation of any previous registration. The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be subject to a fine or imprisonment or both under Federal or State laws.

x *David Coller* 8-1-06

Signature of Applicant

Date

Applicant Signature or Mark

Telephone:

Transfer to New Address				Former Name
No.	Street	Date	Wd/Pct	
7	Menno PL	6-5-02		12-1-09 moved to Springfield

Cancel Date	Cause	Note

COLLES, DAVID MARVIN



April 5, 2013

Leann Grace Collins  
7 Menno Place  
Battle Creek, MI 49015

Dear Ms. Collins,

The City Clerk's Office recently received information you are registered to vote using a commercial address. For registration and voting purposes, you must be registered at a residential address.

As defined by the State of Michigan, in act 168.11, residence is defined as follows:

"Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her spouse, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section does not affect existing judicial interpretation of the term residence.

According to your Voter Registration, you are using a Commercial address as your residential address. The location of your business is located in a C-3 Intensive Business District, which does not allow the property to be used for residential purposes. I have included the portion of the City Ordinance that addresses this:

In a C-3 Intensive Business District, a building or premises shall be used only for the following purposes: (a) Any use permitted in the C-2 General Business District; (b) Any retail Business; (c) Motor vehicle, trailer and boat display, sales and rental, provided that the space used therefor is paved and adequately maintained so as to provide a durable, smooth and dust-free surface, and is so graded and provided with adequate drainage facilities so that all collected surface water is effectively carried away from the site; (d) Motor vehicle repairing, in which all storage of vehicles, as well as all activities, are conducted within a permanent, fully enclosed building; (e) Drive-in Businesses, excluding drive-in theaters, where service may be in automobiles or outdoors, but with all other activities carried on within a building; (f) Second hand stores; and (g) Freezer lockers for retail Business only. (Ord. 36-84. Passed 12-18-84.)

Your voter registration is being cancelled as our local zoning ordinance does not allow a commercial address to be used as a place of residence.

If you have any questions, please call our office at 269.966.3348.

Sincerely,

Victoria L. Houser  
City Clerk

# Michigan Voter Registration Application

## Michigan Driver License/Personal Identification Card Address Change Form

(For use by Michigan designated agencies only.)

If you are not registered to vote where you live now, would you like to apply to register to voter here today?

☒ YES - If you choose to register to vote, the office at which you submit the voter registration application will remain confidential and will only be used for voter registration purposes.

☐ NO - If you decline to register to vote, the fact that you declined to register will remain confidential and will be used only for voter registration purposes.

Applying to register or declining to register will not affect the amount of assistance that you will be provided by this agency. If you do not check either box, you will be considered to have decided not to register to vote at this time.

Applicant Signature

*Leann Collins*

Address

7 Menno Pl

If you checked YES, read instructions and information and complete application below; you will be given this portion as your receipt. If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private. If you choose, you can take this form with you and complete and mail as directed.

PLEASE PRINT INFORMATION CLEARLY

## State of Michigan Voter Registration Application

### and Michigan Driver License/Personal Identification Card

Address Change Form (For use by Michigan designated Agency only.)

Michigan State Agency Use Only  
Date Application Received

Are you a citizen of the United States of America?

☒ Yes ☐ No

Will you be 18 years of age on or before election day?

☒ Yes ☐ No

If you check "No" in response to either of these questions, do NOT complete this form.

Last Name <i>Collins</i>		First Name <i>Leann</i>		Middle Name <i>Grace</i>
Address where you live (house number and street/road) <i>7 Menno Pl</i>				Apt. No./Lot No.
City <i>Battle Creek</i>	MI <i>MI</i>	Zip Code <i>49015</i>	Telephone (optional) ( )	
If you do not have a house number or street address, describe location where you live - cross streets or roads, landmarks, etc.				
<input checked="" type="checkbox"/> City or <input type="checkbox"/> Township where you live		County where you live <i>Calhoun</i>		School district (if known) <i>Battle Creek</i>
Mailing Address (if different)		<input type="checkbox"/> For use on Driver license/Personal ID and Voter Registration, <input type="checkbox"/> For use on Voter registration only		
Date of Birth [REDACTED]		Sex <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female		
ID Number check applicable box and provide appropriate number [REDACTED]				
<input type="checkbox"/> I have a state issued driver license or personal ID card #				
<input type="checkbox"/> I do not have a state issued driver license or personal ID card. The last four digits of my Social Security Number are <i>6285</i>				
<input type="checkbox"/> I do not have a state issued driver license, a state issued personal ID card or a Social Security Number.				
An ID number will be assigned to you for voter registration purposes.				
Are you still registered to vote at your last address? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know (If "Yes" or "Don't Know" enter previous address)				
Previous Street Address		Name of: <input type="checkbox"/> City or <input type="checkbox"/> Township		County
State	Zip Code	Registered under name of: (if different than above)		

## Voter Declaration - Read and Sign. I certify that:

- I am a citizen of the United States.
- I am a resident of the State of Michigan and will be at least a 30 day resident of my city or township by election day.
- I will be 18 years of age by election day.
- I authorize cancellation of any previous registration.
- The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be subject to a fine or imprisonment or both under federal or state laws.

X *Leann Collins* 3-21-13  
Signature of Applicant Date

X *Leann Collins* 3-21-13  
Signature of Applicant Date

Sign and date both spaces provided above.

over



COLLINS, LEANN GRACE

7 MENNO PL  
BATTLE CREEK MI 49015  
*unvalid Commercial*

Name (Last, First, Middle) Residence Address Wd/Pct 04002

DL No:

Birth Date:

Reg. Date: 07/06/2012

Gender: F

County: CALHOUN

City/Twp: BATTLE CREEK CITY

School: LAKEVIEW SCHOOLS

Village:

Mailing Address

School Pct 04002

I am a citizen of the United States. I am a resident of the State of Michigan and will be at least a 30 day resident of my city or township by election day. I will be 18 years of age by election day. I authorize cancellation of any previous registration. The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be subject to a fine or imprisonment or both under Federal or State laws.

X *Leann Collins*  
Signature of Applicant Date

Applicant Signature or Mark

Telephone:

Transfer to New Address				Former Name
No.	Street	Date	Wd/Pct	
2453	Berkley Rd	1-15-13	20	
524	Riverside	9-17-13	9	

Cancel Date Cause Note




COLLINS, LEANN GRACE

9/30/2013

## CHANGE HISTORY FOR

LEANN GRACE COLLINS

529 RIVERSIDE DR, BATTLE CREEK MI 49015

Description	Date / Time	User Code
INTERMEDIATE MOVE(09/17/2013) TO 529 RIVERSIDE DR, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	09/20/2013 1:51:56 PM	DAWN @ BATTLE CREEK CITY (05920)
VOTER REACTIVATED FROM STATUS OF CANCEL - RESIDENCY	09/20/2013 1:51:37 PM	DAWN @ BATTLE CREEK CITY (05920)
STATUS CHANGED TO CANCEL - RESIDENCY	04/05/2013 10:06:42 AM	DAWN @ BATTLE CREEK CITY (05920)
INTERMEDIATE MOVE(01/15/2013) TO 3453 BECKLEY RD, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	01/17/2013 2:01:17 PM	CALHOUN COUNTY PLUS BRANCH (216)
 VOTER RECORD MERGED INTO LEANN GRACE COLLINS AT 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	07/12/2012 5:38:13 AM	QVFTODL @ STATE (0)
LICENSENUM CHANGED FROM C452493288074 TO C452493288072	07/11/2012 11:42:02 AM	WILLISONK @ STATE (0)
REGISTERED(07/06/2012) AS LEANN GRACE COLLINS AT 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	07/06/2012 2:07:37 PM	TEMP @ BATTLE CREEK CITY (05920)
STATUS CHANGED TO VERIFY - CONFIRM ADDRESS	05/30/2012 1:32:46 PM	DCARNELL @ SPRINGFIELD CITY (75700)
LONG MOVE(12/08/2009) TO 67 AVENUE C, SPRINGFIELD MI 49037 (SPRINGFIELD CITY)	12/10/2009 2:02:17 PM	CALHOUN COUNTY PLUS BRANCH (216)
LONG MOVE(01/20/2009) TO 7 MENNO PL, BATTLE CREEK CITY	01/22/2009 2:02:39 PM	CALHOUN COUNTY PLUS BRANCH (216)
LONG MOVE(03/08/2007) TO 4508 E M 79 HWY, NASHVILLE MI 49073 (HASTINGS TOWNSHIP)	03/12/2007 7:31:10 PM	CALHOUN COUNTY PLUS BRANCH (216)
LONG MOVE(03/03/2006) TO 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	03/07/2006 7:34:07 PM	CALHOUN COUNTY PLUS BRANCH (216)
STATUS CHANGED TO VERIFY - SIGN REG. CARD	12/22/2005 2:14:52 PM	BARRYCO @ BARRY COUNTY (08)
LONG MOVE(12/15/2005) TO 4508 E M 79 HWY, NASHVILLE MI 49073 (HASTINGS TOWNSHIP)	12/20/2005 8:49:57 AM	CALHOUN COUNTY PLUS BRANCH (216)
LONG MOVE(03/23/2005) TO 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	03/25/2005 7:34:31 PM	MARSHALL BRANCH (218)
HISTORY STARTED WITH A REG. DATE OF 11/21/2002 FOR LEANN GRACE COLLINS OF 9660 VERONA RD, BATTLE CREEK MI 49014 (EMMETT TOWNSHIP) WITH A STATUS OF ACTIVE	01/12/2003 12:25:33 PM	STATE

Total 16

MICHIGAN REGISTRATION MASTER CARD

(Approved by Director of Elections, State of Michigan.)

ORDER BY FORM NO. MV-418-X  
DOUBLEDAY BROS. & CO., KALAMAZOO, MICH.

<b>Conklin</b> <small>LAST NAME (PRINT)</small>		<b>Mary Elizabeth</b> <small>FIRST AND MIDDLE NAME OR INITIALS</small>		<b>6</b> <small>HOUSE NO.</small>	<b>Riverside Court</b> <small>RESIDENCE STREET</small>		<b>7</b> <small>WARD</small>	<b>2</b> <small>PCT.</small>
MALE <input type="checkbox"/> FEMALE <input checked="" type="checkbox"/>		I hereby swear or affirm that the statements made herein are true. I am a citizen of the United States. I am a resident of the township, city or village for which this application is made. On <b>December 30</b> 19 <b>75</b> , I will be at least 18 years of age and will have lived in the State of Michigan and township, city or village, for which application is made for at least 30 days. On that date I will be a qualified elector of such township, city or village: I was last registered in <b>Battle Creek</b> <b>Calhoun</b> <b>MI</b>						
BIRTH PLACE <b>Battle Creek</b> <b>MI.</b>		DATE OF BIRTH <b>[REDACTED]</b> STATE OF MICHIGAN						
County of <b>Calhoun</b> City of _____ Village of <b>Ir</b> Township of <b>Battle Creek</b>		NAME OF CITY OR TOWNSHIP <b>Battle Creek</b>		NAME OF COUNTY <b>Calhoun</b>		STATE <b>MI</b>		HIS OR HER
		X <b>Mary Elizabeth Conklin</b> <small>SIGNATURE OF APPLICANT</small>						MARK
		Subscribed and Sworn to before me on <b>Dec 30</b> 19 <b>75</b> <b>[Signature]</b> <small>(SIGNATURE OF OFFICER ACCEPTING REGISTRATION)</small>				<b>Electoral</b> <small>(TITLE)</small>		
FATHER'S NAME <b>Raymond Wagner</b>		MOTHER'S NAME <b>Kathleen Gibson</b>		OTHER IDENTIFICATION <b>[REDACTED]</b>		SCHOOL DIST. NO.		
CANCELLATION DATE <b>DEC 86</b>		CAUSE <b>SS INACTIVE</b>		SIG. CANCELLATION CLERK		REINSTATEMENT DATE		REASON FOR REINSTATEMENT
SIG. REINSTATEMENT CLERK								
TRANSFERRED TO NEW ADDRESS					VOTING RECORD ELECTION DATE STAMPS			
HOUSE NO.	RESIDENCE STREET	DATE OF TRANSFER	WARD	PCT.				
323	Whitworth Ave	8-5-77		1				
40	LYNDALE CT.	2-12-81	49-2	2				
447	W. Columbia Ave.	7-7-82		2				
205	Memphem Ave.	1-9-87		13				
316	RIVERSIDE DR	2-21-96		13				
106-72	CHERRY ST	10-30-98		18	→ over			
<b>Conklin</b> <small>LAST NAME (PRINT)</small>		<b>Mary Elizabeth</b> <small>FIRST AND MIDDLE NAME OR INITIALS</small>		<b>6</b> <small>HOUSE NO.</small>	<b>Riverside Court</b> <small>RESIDENCE STREET</small>		<b>7</b> <small>WARD</small>	<b>2</b> <small>PCT.</small>

[illegible]



9/30/2013

# CHANGE HISTORY FOR

DAVID MARVIN COLLES

7 MENNO PL, BATTLE CREEK MI 49015

Description	Date / Time	User Code
STATUS CHANGED TO CANCEL - RESIDENCY	09/12/2013 1:06:23 PM	ADMIN @ BATTLE CREEK CITY (05920)
STATUS CHANGED TO CHALLENGED - RESIDENCY	09/12/2013 1:03:11 PM	ADMIN @ BATTLE CREEK CITY (05920)
LONG MOVE(08/05/2012) TO 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	06/07/2012 2:01:20 PM	CALHOUN COUNTY PLUS BRANCH (216)
STATUS CHANGED TO VERIFY - CONFIRM ADDRESS	05/30/2012 1:20:59 PM	DCARNEILL @ SPRINGFIELD CITY (75700)
LONG MOVE(12/01/2009) TO 67 AVENUE C, SPRINGFIELD MI 49037 (SPRINGFIELD CITY)	12/03/2009 2:02:25 PM	CALHOUN COUNTY PLUS BRANCH (216)
REGISTERED(08/07/2006) AS DAVID MARVIN COLLES AT 7 MENNO PL, BATTLE CREEK MI 49015 (BATTLE CREEK CITY)	08/16/2006 11:22:38 AM	TEMP @ BATTLE CREEK CITY (05920)
Total	6	